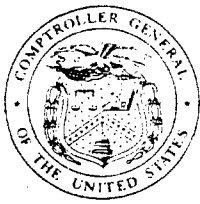


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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-197636

V. Adherence

DATE: February 25, 1980

MATTER OF: Refugee Assistance Program Under the Fiscal
Year 1980 Continuing Resolution

DIGEST: Fiscal year 1980 continuing resolution appropriates for
assistance for Indochinese refugees sufficient funds to
support 14,000 refugees arriving in U.S. each month.

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²²The Under Secretary of the Department of Health, Education, and
Welfare (HEW) has requested ~~our~~ *for* opinion on the amount of funds appro-
priated for refugee assistance by the "Joint Resolution Making Further
Continuing Appropriations for the Fiscal Year 1980, and for other pur-
poses," Pub. L. No. 96-123, 93 Stat. 923. It is the Under Secretary's
position that, in addition to the funds appropriated by the resolution
for refugee assistance by incorporating the amounts provided under
the Departments of Labor, and Health, Education, and Welfare, and
Related Agencies Appropriation Act, 1980 (H.R. 4389) (Labor-HEW
Appropriation Act), the resolution appropriated sufficient funds to
support 14,000 newly arriving Indochinese refugees per month for the
entire fiscal year.

For the reasons indicated below, we agree that the continuing re-
solution appropriated for assistance to Indochinese refugees sufficient
funds to support 14,000 additional refugees per month throughout the
entire year. In addition, the resolution appropriated \$75,540,000 for
general refugee assistance, as provided by the Labor-HEW Appropria-
tion Act as it passed the House of Representatives on August 2, 1979.

There have been two continuing resolutions enacted for fiscal
year 1980. The first resolution (Public Law 96-86) was effective
for the period October 1, 1979, through November 20, 1979. The
second continuing resolution (Public Law 96-123) is effective from
November 20, 1979, and will remain in effect with respect to a
specific program either until the enactment of a regular appro-
priation for the program or, if none is enacted, until September 30,
1980.

Section 101(g) of the second resolution, which is identical to
section 101(j) of the first resolution, appropriated:

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"Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1980 (H.R. 4389), at a rate of operations, and to the extent and in the manner, provided for in such Act as adopted by the House of Representatives on August 2, 1979, * * *."

Title II of the Labor-HEW Appropriation Act, as it passed the House of Representatives on August 2, 1979, appropriated the following for refugee assistance:

"For expenses necessary to carry out the provisions of the Migration and Refugee Assistance Act of 1962 (Public Law 87-510), relating to aid to Cuban Refugees within the United States and other domestic refugee assistance, \$75,540,000."

Section 101(g) of Public Law 96-123, by incorporating this provision of the Labor-HEW Appropriation Act, appropriated a total of \$75,540,000 for refugee assistance. This amount included funds only for refugee assistance under the Migration and Refugee Assistance Act of 1962. Section 101(g) did not appropriate any funds for assistance for Indochinese refugees under the authority of the Indochinese Migration and Refugee Assistance Act because the authority to obligate funds for this program expired September 30, 1979. Funds to assist these refugees and to support other programs not currently authorized were provided by section 101(c) of the second resolution, which is identical to Section 101(e) of the first resolution and which appropriated:

"Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in fiscal year 1979, but at a rate for operations not in excess of the current year:

* * * * *

activities under section 2 of the Indochina Migration and Refugee Assistance Act * * *."

In explaining the effect of this language (although discussing an earlier version of the continuing resolution) Representative Whitten, Chairman of the House Appropriations Committee stated:

"Provision is made in section 101(f) for a number of programs at the current rate. Included are some health and related programs, certain refugee assistance, and certain justice and economic development activities. It is the intention that the resolution, by virtue of the recommendation of the Subcommittee on the Department of Labor and Health, Education and Welfare * * * provide funds to continue reimbursement for cash assistance, medicaid, social services, and training for Indochinese refugees to take care of the 14,000 refugees that are now arriving each month. This is to assure all States that Federal funds will not be cut off while Congress is considering new authorizing legislation for this and other refugee programs." (125 Cong. Rec. H 8136 (Daily ed., September 19, 1979). (Emphasis added.)

Further, the Senate Appropriations Committee, in reporting another version of the resolution, stated as follows:

"This resolution will support the current rate of refugees in the United States and those entering at the rate of 14,000 per month." (S. Rept. No. 96-322, 96th Cong., 1st Sess. 4 (1979).)

It is clear from these statements that the Congress intended to appropriate sufficient funds in the continuing resolution to provide assistance for 14,000 additional Indochinese refugees entering the United States each month.

This intent is confirmed by the action of the Congress in expanding the Second Budget Resolution for Fiscal Year 1980 to permit additional appropriations for Indochinese refugees. This action was explained by the House Committee on the Budget as follows:

"On June 28, at the Tokyo economic summit conference, in recognition of the critical refugee situation in Southeast Asia the President announced that the United States would increase the rate of resettlement of Indochinese refugees from 7,000 to 14,000 refugees per month. Shortly thereafter, at a special United Nations Conference on refugees in Geneva, Vice President Mondale announced a

decision to increase our contributions for the cost of care for the increasing numbers of refugees in camps in Southeast Asia, to provide for the establishment of additional refugee processing centers, and to use U. S. Navy resources for the rescue of refugees in distress at sea.

* * * * *

"The recommendation for the Second Budget Resolution recognizes the crucial nature of the refugee situation and assumes full funding for the President's program in Southeast Asia and for the resettlement of refugees in the United States. Funds are also provided for full Federal financing of authorized cash and medical assistance for refugees for the first four years after their arrival in the United States, as recommended by the House Judiciary Subcommittee on Immigration, Refugees, and International Law in approving an extension of the Indochinese Refugee program (H.R. 2816).

"To provide for these refugee programs in fiscal year 1980, the recommendation for the Second Budget Resolution includes \$1,026 [million] in budget authority and \$769 million in outlays." (H.R. Rept. No. 96-435, 96th Cong., 1st Sess. 34-35 (1979).

The Committee then detailed its recommendation for expanding the budget resolution, as follows:

"COMMITTEE RECOMMENDATION

"The Committee recommendation includes \$530 million in budget authority and \$402 million in outlays, which should accommodate the extension of Indochinese refugee assistance and the higher admission rate proposed by the President. The Committee recommendation assumes the admission of 168,000 Indochinese refugees and 45,000 refugees from the Soviet Union and other countries.

"EXPLANATION OF RECOMMENDATION

"The First Budget Resolution included \$242 million in budget authority and \$292 million in outlays for reimbursement to States for assistance provided to refugees from the Soviet Union, Cuba, and Southeast Asia to cover the costs of caring for about 124,000 refugees in fiscal year 1980. Because the authorization for Indochinese refugee assistance expires on September 30, 1979, and has not yet been renewed, the House Labor-HEW appropriation includes \$76 million in budget authority, the estimated requirement for assistance to Cuban and Soviet refugees only. Extension of the Indochinese refugee assistance authorization is included in H.R. 2816, which was reported from the House Judiciary Subcommittee on Immigration, Refugees, and International Law on August 2, 1979. The cost of this bill in fiscal year 1980 will be \$444 million in budget authority and \$256 million in outlays, assuming a total annual admission of 168,000 refugees. This level implements the President's commitment at the Tokyo summit conference to increase the monthly admission of refugees from 7,000 to 14,000. The recommendation includes the cost of this bill as well as estimated higher requirements under current authorizations of \$10 million in budget authority and \$8 million in outlays, primarily for Soviet refugees. * * *" (Id. at 118)

The House-Senate conference on the second budget resolution also recognized the expansion of the Indochina refugee program to assist 14,000 additional refugees per month, as indicated by the explanation of the conference report:

"The conference substitute accommodates the extension of the Indochinese Refugee Assistance program. * * * The conference substitute accommodates the program level of 14,000 admissions a month assumed in the House Resolution." (125 Cong. Rec. H. 10383 (Daily ed., November 8, 1979).)

Based on the legislative history of the fiscal year 1980 continuing resolutions, and the action of the Congress on the second budget resolution for fiscal year 1980, we believe that the Congress intended and expected that the continuing resolution would appropriate the amount of funds needed to assist 14,000 new Indochinese refugees per month.

We recognize that this Office has repeatedly interpreted the term "current rate," as used in continuing resolutions, as referring to a sum of money rather than a program level. See CETA appropriation under 1979 Continuing Resolution, 58 Comp. Gen. 530 (1979); Department of Labor Appropriations under Continuing Resolution, B-194063, May 4, 1979, Elderly Feeding Program under the fiscal year 1979 Continuing Resolution, B-194362, May 1, 1979. We have held that "current rate" is equivalent to the total appropriation or the total funds which were available for obligation for a particular program during the previous fiscal year. Id. In instances like the present one, in which the program in question has been funded by one-year appropriations in prior years, we stated that the current rate is equal to the total funds appropriated for the program for the previous fiscal year. See 58 Comp. Gen. at 533; Elderly Feeding Program, supra. In other words, "current rate" has become a term of appropriations art and in the interests of administrative stability it should be interpreted consistently by the Government's fiscal and accounting officers.

However, in none of our previous decisions were we faced with such clear legislative statements from both the Appropriations and Budget Committees indicating an intent to continue a program at a funding level greater than the amount of funds available for the program in the previous fiscal year. The Budget Committee statement is particularly persuasive that the inflationary impact of the higher level of funding had been fully considered and, notwithstanding that fact, it was important to implement the President's commitment at the Tokyo summit conference to increase the monthly admission of refugees from 7,000 to 14,000.

We conclude that the fiscal year 1980 continuing resolution appropriated sufficient funds to provide the assistance authorized by the Indochina Migration and Refugee Assistance Act to an additional 14,000 refugees each month for the entire fiscal year.


Comptroller General
of the United States